

Public Services and Public Relations

BETTY VIRGINIA LEBUS

A LIBRARY BOARD FACES a number of interesting but frustrating problems as it develops the public service program of the library to serve the needs of the community and as it engages in public relations programs directed toward improved library service. This paper will explore some of the legal bases for the operation of public service and public relations programs. A study of the statutes and cases shows that, in general, legislatures have granted wide authority to the library board to conduct the affairs of the library, but have not undertaken to define powers specifically. Rarely have courts been called upon to interpret the powers of the library board. Thus a library board finds itself in a position where it must act and hope that should its actions be challenged subsequently the courts would agree with the board's interpretation of its powers and duties.

As the library board plans the public service program of the library it must determine who can use the library and what regulations are needed to make the materials of the library available to all on an equal basis. If auditorium or other meeting space is available the board must plan for its use also. Library boards have been vested with certain powers to perform these acts.

Many state legislatures have followed the early pattern of the Illinois Library Law of 1872¹ which gave the board of directors power:

1. to "make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library and reading room as may be expedient,"
2. to "exclude from the use of said library and reading-room any and all persons who shall willfully violate such rules,"
3. to exercise exclusive control "of the supervision, care and custody of the grounds, rooms or buildings" set apart for the library.

This act also declared that "Every library and reading-room, established under this act, shall be forever free to the use of the inhabitants

The author is Law Librarian, Indiana University.

of the city where located, always subject to such reasonable rules and regulations as the library board may adopt, in order to render the use of said library and reading-room of the greatest benefit to the greatest number. . . ." In addition the board was given specific power to "extend the privileges and use of such library and reading-room to persons residing outside of such city in this state, upon such terms and conditions as said board may from time to time by its regulations prescribe."

Although this language has not been interpreted by the Illinois courts with respect to the day-to-day operation of the library, it seems reasonably clear that a library board operating under such language has sufficient power to regulate the use of the collection and of the library building itself by deciding who may borrow library materials, requiring borrowers to register, fixing the library hours, making restrictions and conditions on loans, setting fine schedules, limiting access to certain portions of the collection, inspecting briefcases, exercising general disciplinary powers to keep order, etc.

In reality, as the library board undertakes the formulation of general policy on any of these matters it encounters difficulties immediately. For example, "Who may use the library?" seems a fairly simple question at first, but on closer examination many conflicts between theory and practice are revealed. Generally, library boards and personnel are persons dedicated to the premise that library service ought to be available to anyone who desires it and undoubtedly in many cases service is given without regard to the status of the patron. Certainly this is true of reference service even though it may not be true of circulation of library materials. In practice, however, the board is restricted by such provisions as found in the Illinois statute that the library "shall be forever free to the use of the inhabitants of the city where located."

The use of the term "inhabitant" has been common in many states though the political unit involved may vary and other statutes use a different classification. The Delaware statute, for example, refers to "the district" or "any person outside the district who owns real estate assessable . . ."² and the new Library Services Act requires that library service be made available free of charge to all residents of a community, district, county, or region.³ Do these terms refer to one who actually resides, votes, owns property, works or is a student within the political unit and what is the effect of such language on

the practice of racial segregation? The cases give little assistance in the interpretation of these words.

What issues face a library board as it undertakes to "extend the privileges and use of such library and reading-room to persons residing outside of such city in this state, upon such terms and conditions as said board may from time to time by its regulations prescribe"? Under this language it seems clear the board would have power to extend library service and it may charge a fee for such service. Under some other statutes the board may be required to make such a charge.⁴ However, when considering the extension of library service to others than the "inhabitants" boards must be aware that they may encounter opposition from local taxpayers and also should bear in mind that such extension may stifle efforts to secure organized library service in the unserved areas.

There are still other facets of this same "who can use" question. Today, the increased use of interlibrary loans as a method of supplementing local book collections, and the demand for such things as multiple copies of current fiction, films, records, and projection equipment which can be financed only if the library can charge a fee for the use of these items present familiar problems. Yet both of these might raise the "forever free to the inhabitants" issue as pointed out in the previous chapter on financial support.

Interlibrary loans have been recognized specifically in some recent statutes. The Colorado statute expressly permits "exchanges of books and other materials with any other library, either permanently or temporarily,"⁵ and the Oregon statute permits exchanges of books to other libraries in Oregon.⁶ Although many libraries charge rental fees for some books, films, records, equipment, etc., the Indiana Library Law of 1947⁷ which provides that "residents . . . shall have the use of the facilities of such library without charge . . . except that the library board may fix, establish and collect fees and rental charges," is the only specific statutory authority found for the collection of such rental fees.

The enforcement of the library's rules and regulations involves another area where the board is given general power to act but is given little practical guidance in meeting specific fact situations as they arise. Legislatures have frequently made sanctions available to the library board for the enforcement of its rules and regulations. Statutes commonly make malicious cutting, tearing, defacing, breaking, or injuring books a misdemeanor.⁸ In some states willfully de-

taining books beyond the loan period is a misdemeanor.⁹ Other statutes give the county or municipality power to pass ordinances dealing with these problems.¹⁰ As a purely practical matter, however, these sanctions are not used except in the case of the perpetual delinquent or where rare or valuable material is involved because court costs are too high and the potential loss of good will is too great.

Most states have given the library board specific power to exclude persons who willfully violate the rules from the library. This provision gives the board a general sanction for the enforcement of its regulations and may be invoked to control noise, loitering, etc. It may be that this power would permit forcible eviction, but reliance on more subtle measures and the local police authorities might be preferred.

When the library board undertakes to formulate a policy for the use of its auditorium or other meeting rooms by various groups within the community, it is presented with some serious questions involving community good-will. Statutes such as the Illinois act grant the library board specific power to exercise exclusive control "of the supervision, care and custody of the grounds, rooms, or buildings" set apart for the library. This language is simple to read but difficult to administer when the question of use of library rooms by outside groups is raised. The Minnesota attorney general, in construing similar language found in the Minnesota statutes, has said: "Exclusive control of the rooms and building contemplates a determination by the board as to what use shall be made of such rooms. Its action must be reasonable, not arbitrary. If in conformity with such standards, the board may say who may use the room and when it may be used and who may not use the room."¹¹ The Library Bill of Rights adopted by the American Library Association in 1948, states: "As an institution of education for democratic living, the library should welcome the use of its meeting rooms for socially useful and cultural activities and discussion of current public questions. Such meeting places should be available on equal terms to all groups in the community regardless of the beliefs and affiliations of their members."

Although the language of the statute and of the opinion seem quite clear on first reading, and the statement of policy is excellent, none are of much assistance to the board in the resolution of the practical problems still left in their hands. Certainly as a point of departure, the use made by outside groups cannot be such as would interfere with the primary purposes of the building. But beyond this point, there is little to guide the library board. What are "socially useful

and cultural activities"? Should religious groups, purely social groups, political parties, etc., be permitted to use the rooms? Occasionally? For regular meetings? The Minnesota attorney general refers to a reasonable not arbitrary standard, but suggests no criteria. "Non-controversial" might be used as a standard, but what is "non-controversial" and wouldn't such a judgment involve censorship of what the community should hear or do? Should a charge be made and if so, how much? Should it not, at least, cover the out-of-pocket expenses involved to the library?

Up to this point the problems relating to the provision of library service, as well as the necessary restrictions on use of library materials and meeting rooms were discussed. The second part of this paper will treat the query: "What are the legal bases for the active public relations programs which have become so much a part of library activity today?" At least in the library world the concept of the public library as an "institution of education for democratic living" has developed. The recognition of the library's role in the community, the stimulation of library use by members of the community and the development of active support for the library program have become important objectives of professional associations and recognized functions of library boards and personnel. Library boards and library administrators have found themselves in the position of competing with parks, the recreational programs of the community and, in some instances, with the schools for support. In carrying out the public relations programs, librarians have issued quantities of publicity in all forms, have appeared at public meetings, on television and on radio, and have prepared book displays at fairs, in store windows, as well as in the library itself. Board members and librarians have participated actively in support of legislation proposed by professional associations. All of these activities have been carried on zealously when a change in the tax levy is contemplated or a bond issue is proposed.

It is interesting that in the maze of writing on these subjects, the library and the legal literature fail to provide any discussion of the over-all legal bases for such activities, nor do they provide any consideration of the possible restrictions on the political activities of library personnel. Certainly it must be recognized that library board members and library personnel have the same right, in fact duty, as any citizen to partake in these activities. Members of professional organizations have a greater duty in this respect.

This still leaves a series of difficult questions. Can tax funds, or

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space, time, supplies or equipment purchased by tax funds be utilized to conduct a public relations program? Can tax funds be used to employ a public relations director as a member of the library staff? Can such funds be used to lobby for legislation? Can they be used to stimulate support for a bond issue or an increase in the tax rate? No exact answer has been found to any of these queries. It is doubly important, therefore, that library boards be aware that they may face these issues squarely. It may be that legislation is necessary to clarify the board's powers in these areas, or it may be that the courts would find these powers to be included within the general powers of the board.

It is well recognized that political units, such as libraries, have only those powers expressly granted to them or necessarily implied or incident to the express powers granted. An examination of the library laws of many states failed to reveal any express grant of authority to conduct a public relations program. The remaining question is then whether this power can be implied from those powers which are granted to the library board.

The heart of this question is whether the use of tax funds for a public relations program runs counter to the concept inherent in American democracy that public funds may be used only for public purposes since to do otherwise would be to take property without due process of law. This term "public purpose" has been construed by the courts in some cases involving advertising expenditures by governmental bodies. Although there is some conflict of authority on this point, in the cases where the expenditure has been upheld, the advertising was usually the chamber of commerce variety and in some instances the statute granted power to spend funds to stimulate industrial development. It must also be pointed out that where upheld these expenditures were made by elected officials whereas library board members are usually appointed. In one New Jersey case the court held that a "municipality may lawfully publicize, at public expense, what its governing body conceives to be sound reasons, relating to the essential local welfare, for the rejection by the people of the State of proposed amendments to the Constitution."¹² In discussing this case, the *Harvard Law Review* pointed out that this case was the first in which the court made the leap from sanctioning advertisements of a chamber of commerce type to approving advertising expense in a campaign to influence the electorate.¹³

In determining to what extent a public relations program can be

treated as falling within the general powers of the library board, it is important, first, to examine the nature of such a program. Commonly, public relations programs are directed at three goals: (1) To inform the community of the library resources available and to stimulate use by members of the community; (2) To gain support for proposed legislation; and (3) To gain support for tax levies or bond issues. It can be agreed that library boards have an obligation to make the materials of the library available for use. In some sense all of these activities may be regarded as part of this process and therefore, such expenditures fall within the scope of the board's power. Also it has been stated that "one obligation resting upon every public institution in a democracy is that of standing ready at all times to render an account of itself to the people and to show cause why they should continue to support it."¹⁴ This reasoning may support a public relations program. However, one does encounter an ethical if not legal question in using tax funds to raise taxes. L. M. Nourse,¹⁵ in describing the energetic campaign conducted to raise funds for the St. Louis Public Library, recognized this question when he stated it was considered inadvisable to use public tax funds for this purpose but that fortunately special funds from gifts were available.

In studying the propriety of undertaking a public relations program, library boards should bear in mind that time paid for by tax funds as well as the more direct expenditure of the tax dollar is involved. Since they are unsalaried, it may be in this area that the board member can make his greatest contribution to the library's program and to the cause of library service for all without encountering the question of misuse of tax funds. Library personnel face a vague distinction between the proper and improper use of staff time.

In summary, many questions relating to the legal issues involved in the administration of the public service and public relations programs by library boards have been raised in this paper. Few answers have been found; some solutions have been suggested. Specifically it can be said only that the language of the statutes granting powers to library boards to conduct the affairs of the library is general. As library service has developed, library boards have been confronted with problems and have resolved them within those general powers as the necessities of the situation demanded. Although more specific direction might be desirable in some cases, the limitations coincident with the more specific language would present additional difficulties.

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